

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
LANAI WATER COMPANY, INC.)
)
For Amendment of Its Certificate of Public)
Convenience and Necessity Pursuant to)
Section 269-7.5 to Provide Non-Potable)
Water Service in Manele-Hulopoe, Lana'i,)
and for Approval of Rules and Regulations,)
and Rates)
_____)

DOCKET NO. 2008-0322

STIPULATED PROCEDURAL ORDER

and

CERTIFICATE OF SERVICE

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

PUBLIC UTILITIES
COMMISSION

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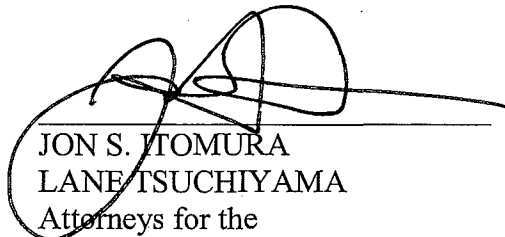
STIPULATED PROCEDURAL ORDER

Applicant Lanai Water Company, Inc. and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs hereby stipulate that the attached Stipulated Procedural Order is mutually acceptable to each respective party.

DATED: Honolulu, Hawaii, April 3, 2009.



CRAIG I. NAKANISHI
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Attorneys for
Lanai Water Company, Inc.



JON S. ITOMURA
LANE TSUCHIYAMA
Attorneys for the
Division of Consumer Advocacy
Department of Commerce and Consumer Affairs

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STIPULATED PROCEDURAL ORDER

On December 26, 2009, Lanai Water Company, Inc. ("Applicant" or "LWC") filed an application pursuant to Hawaii Revised Statutes ("HRS") § 269-7.5 & -16 requesting Public Utilities Commission of the State of Hawaii (the "Commission") approval of: (1) LWC's request to amend its Certificate of Public Convenience and Necessity ("CPCN") to provide Non-Potable Water Service in the area of Manele-Hulopoe, Lanai; (2) Applicant's proposed Lanai Water Company, Inc. Rules and Regulations Covering the Provision of Non-Potable Water Service; (3) initial rates for Non-Potable Water Service; (4) Applicant's affiliate transactions; and (5) the Waiver of the Commission's requirements for audited financial statements.

On February 5, 2009, the Commission filed its Order Granting Waiver Requests and Other Initial Matters (the "February 5, 2009 Order"), granting Applicant's waiver requests, and setting the filing date of Applicant's completed application as of December 26, 2008. The February 5, 2009 Order noted that the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs, State of Hawaii (the "Consumer Advocate") did not object to the completeness of the Applicant's Application.

The February 5, 2009 Order further instructed that the parties must submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern Applicant's Application within fourteen days of the Commission's order addressing intervention or participation without intervention; or if no intervention motions are filed, within seven days of the deadline for intervention.

On March 12, 2009, the Commission held a public hearing on the application in Lana'i City, Hawaii. Accordingly, the deadline to file a motion to intervene was March 23, 2009.

Applicant and the Consumer Advocate have reached agreement on the prehearing matters and submitted a Stipulated Prehearing Order acceptable to both parties.

ACCORDINGLY, IT IS ORDERED that the following Statement of Issues, Schedule of Proceedings, and procedures shall be utilized in this docket.

I. STATEMENT OF THE ISSUES

The issues in this case are:

1. Is LWC fit, willing, and able to properly perform the non-potable water service proposed in the application and to conform to the terms, conditions and rules adopted by the Commission regarding said service?
2. Is the proposed service set forth in the Application required, or will said service be required, by the present or future public convenience and necessity?
3. Are LWC's proposed rates, charges, and tariff rules and regulations for the proposed service in the application just and reasonable?
 - a. Are the revenue forecasts for the test year January 1, 2009 to December 31, 2009, for the proposed rates reasonable?

- b. Are the projected operating expenses for the test year January 1, 2009 to December 31, 2009, reasonable?
4. Whether the Applicant's request to transfer an undivided interest in the Facility and related plant and equipment from Lanai Holdings, Inc. ("LHI") to Applicant under the terms set forth in the Shared Asset Contribution Agreement reasonable and should be approved?
5. If the Commission approves the Application:
 - a. pursuant to HRS section 269-19.5(g), whether Applicant's purchase bulk deliveries of non-potable water through a contract with its parent LHI under the terms set forth in the Agreement for Sale of Non-Potable Water is reasonable and should be approved; and
 - b. if applicable, pursuant to HRS section 269-19.5(c), whether Applicant's request to obtain easements and licenses to use the real property of its affiliates to provide utility services should be approved.

II. SCHEDULE OF PROCEEDINGS

LWC's application to amend its CPCN	December 26, 2008
Date of completed application	December 26, 2008
Consumer Advocate Information Requests ("CA IRs")	Monday, April 6, 2009 through Friday, April 22, 2009
LWC Responses to Consumer Advocate IRs ¹	Friday, April 10 through Friday, May 1, 2009
Consumer Advocate Statement of Position ("SOP")	Friday, May 15, 2009

¹ Whenever possible, parties will provide a copy of documents on diskette upon request.

LWC's Rebuttal SOP *

Friday, May 22, 2009

Parties Settlement Agreement, if any

Friday, May 29, 2009

* If the CA objects to approval of the application or requests that approval subject to conditions.

If there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation and the parties do not waive the right to a hearing, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

If LWC determines that a Reply SOP is unnecessary, LWC and the Consumer Advocate will notify the Commission that the proceeding is ready for decision making.

III. MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

A. Requests for Information

To the extent practical, LWC and the Consumer Advocate will cooperate (1) by exchanging information requests and responses as they become available, and (2) by resolving questions regarding information requests and responses informally to attempt to work out problems with respect to understanding the scope and meaning of information requests, or with respect to the availability of information. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (documents consisting of 100 pages or more), the documents or materials may be made available for reasonable inspection and copying at a mutually

agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request may make the diskette or such electronic medium, with all formula and cell references intact, available to the other party and the Commission.

A party shall not be required, in response to an information request, to provide data that are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, *infra*. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to a protective order governing this docket.

A party seeking production of documents notwithstanding a party's claim of confidentiality may file a motion to compel production with the Commission.

B. Matters of Public Record

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that LWC has filed with the Commission, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to water utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection by the Commission and the parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission in this case.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

C. Copies of Filings and Information Requests

1. Filings:

Commission Original + 8 copies
LWC 3 copies
Consumer Advocate 3 copies

2. Information Requests and Responses:

Commission Original + 8 copies
LWC 3 copies

3. All pleadings, and other documents required to be filed with the Commission shall be filed within the time limits prescribed pursuant to Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

4. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or via facsimile. In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via diskette or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97, Word 2000, or Word 2003 as the standard programming format for filings in this case. However, if work papers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such work papers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via diskette or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or via facsimile as provided in Parts II.C.1 and II.C.2 above.

D. Communications

Chapter 61, subchapter 3, section 6-61-29 of the Commission's Rules of Practice and Procedure concerning *ex parte* communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.


Communications between the parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda, and the like shall also be served on opposing counsel.

E. General


These procedures are consistent with the orderly conduct of this docket. This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the Parties in writing and approved by the Commission, or upon the Commission's own motion.

DONE at Honolulu, Hawaii, this 29th day of April 2009.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Kaiulani Kidani Shinsato
Commission Counsel

CERTIFICATE OF SERVICE

The foregoing Stipulated Procedural Order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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